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PATENT ACTION

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re United States Patent Application of:

Applicant: RICHTER, Virginia Pact, et al.

Application No.: 09,940,309

Date Filed: August 27, 2001

Title: TREATMENT OF  
MOVEMENT DISORDERS BY  
ADMINISTRATION OF 5-  
HYDROXYTRYPTAMINE  
RECEPTOR/ $\alpha_2$  ADRENERGIC  
RECEPTOR ANTOGONIST  
COMPOSITIONS

) Docket No.: 4164-101 CON

) Examiner: JARVIS, William

) Group Art: 1614

) Confirmation No.: 5504

) Customer No.: 23448



23448

PATENT TRADEMARK OFFICE

EXPRESS MAIL CERTIFICATE

I hereby certify that I am mailing the attached documents to the Commissioner for Patents on the date specified, in an envelope addressed to the Commissioner for Patents, Washington, D.C. 20231, and Express Mailed under the provisions of 37 CFR 1.10.

Katrina Holland

Katrina Holland

February 18, 2003

Date

EV 291922585 US

Express Mail Label Number

**RESPONSE TO ELECTION REQUIREMENT IMPOSED IN JANUARY 15, 2003  
OFFICE ACTION FOR U.S. PATENT APPLICATION NO. 09/940,309**

Commissioner for Patents  
Washington, D.C. 20231

Sir:

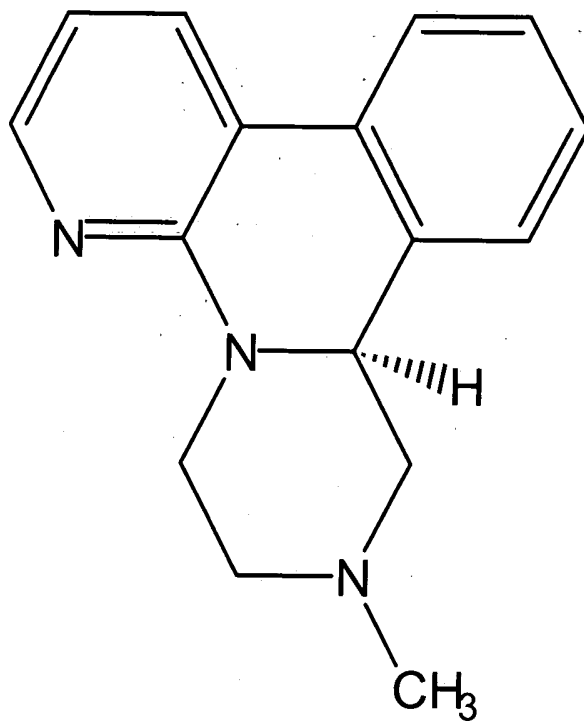
In the Office Action dated January 15, 2003 in the above-identified patent application, an election requirement was imposed on claims 1-31 as originally filed and pending in the application.

The Examiner has required applicant "under 35 U.S.C. 121 to elect a single disclosed species from each class (i.e. a 5-HT antagonist and/or an  $\alpha$ -2 antagonist or one compound exhibiting both activities)."

In response, applicant elects "one compound exhibiting both activities" and elects mirtazapine as a single disclosed compound, viz.,

1,2,3,4,10,14b-hexahydro-2-methyl-pyrazino [2,1-a] pyrido [2,3-c]benzazepine).

The S(+) enantiomer of this compound, for example, has the formula:



It therefore is requested that prosecution of this application proceed based on the election of species herein.

Respectfully submitted,



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Attorney for Applicants

**INTELLECTUAL PROPERTY/  
TECHNOLOGY LAW**  
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